

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
JANUARY 13, 2003
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:55 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky and Joan House.

ABSENT: Councilmember Andy Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Paul Adams, Parks and Recreation Director; Rick Morgan, City Engineer / Acting Public Works Director; Drew Purvis, Planning Director; Stacey Rice, Senior Planner; and Lisa Pope, City Clerk

FLAG SALUTE

Doug O'Brien led the Pledge of Allegiance.

CLOSED SESSION REPORT

Public Comment on Closed Session Items

None.

City Attorney Hogin reported that the Council met in closed session at 5:35 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
2. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
3. City of Malibu v. California Coastal Commission (Streisand Center Coastal Permit)
Los Angeles County Superior Court Case No. BC230410
4. City of Malibu v. California Coastal Commission / TLC / Liebig (Referendum)
Los Angeles County Superior Court Case No. SS011355
5. City of Malibu v. California Coastal Commission (AB988 / LCP)
Los Angeles County Superior Court Case No. SC074641

6. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)
Ventura County Superior Court Case No. CIV193900
7. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
8. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
9. Land Use Preservation Defense Fund v. California Coastal Commission (LUP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011388
10. Marine Forest Society v. California Coastal Commission Case No. 00AS00567 (Sacramento Superior Court) (Amicus)
11. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
12. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
13. Sweeney et al v. California Coastal Commission (LCP/City is Real Party in Interest)
Los Angeles County Superior Court Case No. SS011387
14. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
15. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
16. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794

Initiation of Litigation pursuant to Government Code Section 54956.9(c):

17. Number of cases: 3

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

18. Number of Cases: 1

Conference with Labor Negotiators pursuant to Government Code Section 54957.6:

19. Unrepresented employee: City Treasurer

Real Estate negotiation matters pursuant to Government Code Section 54956.8:

20. Property located at: 3731 Las Flores Canyon Road
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Jack Willis
21. Property APN: 4458-018-002, 018, 019
City Negotiator: City Manager Lichtig or designee
Property Negotiator: Roy E. Crummer

City Attorney Hogin stated the Council discussed several but not all items listed on the Closed Session agenda and took no reportable action.

APPROVAL OF AGENDA

Mayor Jennings proposed moving Item 5.B. prior to Item 5.A. He announced that he was not prepared to make his appointment to the Trails Committee and therefore recommended continuing Item 7.A.

MOTION Mayor Pro Tem Kearsley moved and Councilmember House seconded a motion to approve the agenda with Item 5.A. moved prior to Item 5.B. and Item 7.A. continued. The motion carried 4-0, Councilmember Stern absent.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on December 30, 2002, with the amended agenda posted on January 10, 2003.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Presentation by Los Angeles County Fire Department and City Manager regarding recent fires in Malibu

Fire Chief Schuster provided an overview of the Pacific (Trancas area) Fire on January 6, 2003.

Councilmember House requested information on brush clearance. Chief Schuster commended the Trancas area residents for their brush clearing efforts, which assisted in fire fighting efforts. He explained that the rain prevented a devastating fire and slowed the spread of the fire. Councilmember House commended the Fire Department and Sheriff's Department. She reminded residents to brush clear and install non-combustible roofs.

Mayor Jennings asked about the use of fixed wing aircraft. Chief Schuster indicated the aircraft came from the Forestry Service and arrived on Tuesday, January 7, 2003. He explained that the Super Scooper would not have been able to fly during the weather conditions. Chief Schuster explained that the Super Scooper contract was effective during the most critical fire season. He discussed additional equipment utilized during the fire. Mayor Jennings discussed the potential use of fixed wing aircraft from Pt. Mugu. He stated he had received a letter from a resident questioning whether there was something to do for the fire fighters to make the situation more comfortable. Chief Schuster explained that the fire fighters were taken care of with food and sleeping arrangements.

City Manager Lichtig discussed fire damage at Charmlee Park. She stated the City would be participating in the BAER (Burned Area Emergency Rehabilitation) program. She indicated Charter Communications suffered some damage. She discussed school closures during the fire. She discussed updates to the City's website and hotline during the fire. She explained that cultural resources at the National Park adjacent to Charmlee Park were

identified in the burn area and therefore the park would be closed for several months. She commended City staff for their efforts during the fire.

Mayor Jennings stated he spoke with Superintendent Deasy who was complimentary to City staff's work during the fire.

Captain Glazar commended the Fire Department for their fire training.

B. Introduction of Gloria Gressman as the Malibu Liaison Lieutenant

Captain Glazer explained that Lt. Van Herpe had requested reassignment and therefore would no longer be the City of Malibu's liaison. He introduced Gloria Gressman as the Malibu Liaison Lieutenant.

Lt. Van Herpe thanked the City Council and staff for their support during his tenure.

Lt. Gressman stated she was happy to be in Malibu and excited to take on the new position.

C. Swearing in of Mobilehome Park Rent Stabilization Commissioners

This item was continued to January 27, 2003.

D. Proclamation Declaring March 19, 2003 through April 19, 2003 as "One Book, One City – Malibu" month

Mayor Jennings presented a proclamation declaring March 19 – April 19, 2003 as "One Book, One City Malibu" Month to Alexis Adler and Mary Lou Blackwood.

Alexis Adler announced the event kickoff on March 19, 2003. She encouraged all of Malibu to read and enjoy "The Catcher in the Rye", by J.D. Salinger.

E. Commendation to Paul Hanson for his successful rock climb in May 2001 to raise money for Hats Off for Cancer

Mayor Jennings presented a commendation to Paul Hanson for his successful rock climb in May 2001 to raise money for Hats Off for Cancer.

Paul Hanson explained that he climbed the highest mountain in Puru, which is 22,205 feet high. He explained that he raised money for Hats Off for Cancer.

F. Presentation of a video entitled "Local" by Gary Milliman of the League of California Cities

Gary Milliman, League of California Cities, discussed the video "Local" regarding the campaign to protect local government revenues. He discussed recent budget cuts proposed by the Governor. He explained the State's budget deficit. He stated the Governor was proposing reducing Malibu's State funding by over \$750,000 over the next 18 months. He urged the City to contact its legislators and provide an analysis on how the vehicle license fee loss would affect the City services. He urged the City to make presentations for local community groups.

ITEM 2A. PUBLIC COMMENTS

Dermot Stoker praised and thanked the Fire and Sheriff's Departments for their efforts in the recent fire. He discussed his disappointment with the Parks and Recreation Commission serving as the City's bond committee. He stated it would be a difficult process.

Mark Olson, President of Malibu of the Chamber of Commerce, presented the new Malibu Business Directory. He echoed the praise for the agencies involved in fighting the fire.

Bruce Darian addressed the Council regarding alleged corruption related to construction at the Malibu Pier.

Carter Emmett addressed the Council regarding construction at the Pier.

Luke Larsen deferred his time to Bruce Darian.

Bruce Darian discussed an upcoming court hearing related to his litigation.

B. COUNCIL COMMENTS

Mayor Pro Tem Kearsley suggested postponing Council comments until later in the meeting.

Councilmember Barovsky asked the City's responsibility on bidding contracts for the Pier. Mayor Jennings explained that the Malibu Pier was owned by the State of California and the City had no role in the construction process.

CONSENSUS

By consensus, the Council deferred Item 2.B. until the end of the meeting.

ITEM 3 CONSENT CALENDAR

Councilmember House pulled Item 3.A.1.

MOTION Councilmember House moved and Councilmember Barovsky seconded a motion to approve the Consent Calendar with the exception of Item 3.A.1. The motion carried 4-0, Councilmember Stern absent.

The Consent Calendar consisted of the following items:

B. New Items

1. Waive further reading
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants
Staff recommendation: To allow and approve warrant demand numbers 20800 through 21046 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 275 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$1,402,469.67 including ADP payroll voucher numbers 935914 – 735922 and 1024348 – 1024361.
3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon
Staff recommendation: Re-affirm the State of Local Emergency by minute order.
4. Denial of Claim for Damages filed by the Estate of Arthur King Zimmerman
Staff recommendation: Deny the claim filed by the Estate of Arthur King Zimmerman
5. Metropolitan Transportation Authority (MTA) Letter of Agreement for Cross Creek Road Pedestrian and Parking Improvements Project – MTA Call for Projects ID# 8204, FTIP# LA0C8204
Staff recommendation: Authorize the City Manager to execute the Letter of Agreement for the Cross Creek Road Pedestrian and Parking Improvements Project.
6. Latigo Shores Drive Street Vacation
Staff recommendation: Direct staff to draft a letter for the Mayor's signature to Caltrans stating that the City has no planned use for excess state highway right-of-way on Latigo Shores Drive at Pacific Coast Highway and does not object to the vacation of said right-of-way to the adjoining private property owners.
7. Consider Ratification of State of Local Emergency
Staff recommendation: Adopt Resolution No. 03-01 proclaiming the existence of a local emergency.

The following item was pulled from the Consent Calendar for individual consideration:

A. Previously Discussed Items

1. Appeal No. 02-006 – An Appeal of the Planning Commission’s Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-Feet in Height - Appellant: Patt Healy and/or Malibu Coalition for Slow Growth; Applicant: Barsocchini & Associates; Owner: Arthur and Kimberly Silver; Location: 24950 Pacific Coast Highway
Staff recommendation: Adopt Resolution No. 02-38 denying Appeal No. 02-006, approving Plot Plan Review No. 00-129 and approving Site Plan Review No. 00-083 for a new two-story single-family bluff top residence at 24950 Pacific Coast Highway (Arthur and Kimberly Silver).

Patt Healy requested various amendments to the resolution including limitations to structure height; dedicated easement for landscaping; and restriction that other development such as sports courts be developed in the zone surrounding the house.

Ted Vaill concurred with the changes proposed by Ms. Healy.

Kevin Kozal disagreed with the comments by Ms. Healy and Mr. Vaill. He indicated he had provided written comments related to the resolution.

Councilmember House asked if Ms. Healy’s proposed changes were reviewed. Planning Director Purvis stated the Planning staff had reviewed the comments.

Kevin Kozal stated he had not received the comments submitted by Ms. Healy.

City Attorney Hogin suggested the information be provided to Mr. Kozal and the matter continued.

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded a motion to continue the item to January 27, 2003. The motion carried 4-0, Councilmember Stern absent.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

None.

ITEM 5 OLD BUSINESS

- B Presentation of Vision 2020 Proposal (Continued from December 9, 2002)
Staff recommendation: Receive presentation by the Vision 2020 Committee.

Rich Davis discussed the overall goals of the Malibu 2020 Vision Plan and the committee's proposal.

Fred Droz provided an overview of the proposed process including: 1) Phase 1 - Initiating organization and structure; 2) Phase II – Creating the 2020 Vision; and 3) Phase III – Implementing the 2020 Vision. Mr. Davis provided the timeframes and costs for each phase.

RECESS Mayor Jennings called a recess at 8:47 p.m. The meeting reconvened at 8:55 p.m. with all Councilmembers present, with the exception of Councilmember Stern.

Councilmember House asked about the City's budget. City Manager Lichtig explained the City's budget as \$12 million in operating expenses and \$6 million in capital projects which came from grants. She explained the expenses which were discretionary versus non-discretionary.

Mayor Jennings discussed the benefits of a visioning program but questioned the amount of flexibility afforded the City in regarding to future planning. He stated he was enthusiastic but would like testimonials from other cities to consider the substantial funds required for the program. Mr. Davis stated he would provide testimonials from other cities. He stated the citizen voice must be heard.

Councilmember Barovsky stated it was necessary to find out the outcome of the Local Coastal Program.

Councilmember House indicated support for the Vision 2020 concept but stated it was necessary to consider funding. She stated it was necessary to get the vision of today and project for the year 2020. Mr. Droz discussed funds spent on visioning in other communities.

Mayor Pro Tem Kearsley stated the City had tactical planning but did not have strategic planning. He asked how the planning would include the new demographic. Mr. Droz explained that the leadership team must be viewed as objective and apolitical. He stated constant communication and educational aspects must be included.

Mayor Pro Tem Kearsley thanked the committee for their work. He proposed the Council have representatives from Laguna provide their experience. He also requested three plans from other cities including costs and timelines be presented to the Council.

Councilmember Barovsky stated she would be interested in hearing the experience of other coastal cities.

Mayor Jennings stated the experience of coastal cities would be more useful.

CONSENSUS

By consensus, the Council directed staff to have representatives from other coastal cities present their experience to the City Council.

A. Comprehensive Local Coastal Program (LCP) Application – Review of Hazards and Shoreline / Bluff Development Provisions (Section 3 of 6)

Staff recommendation: Consider potential modifications to the September, 2002 LCP and provide direction to the consultant for preparation of the LCP application.

Planning Director Purvis presented the staff report.

Lloyd Zola reviewed the proposed modifications to the Land Use Plan and Local Implementation Plan.

Mayor Pro Tem Kearsley asked the definition under the LCP of new development. Mr. Zola explained that new development was anything other than replacing the existing footprint.

CONSENSUS

By consensus, the Council directed staff to confirm that the LCP was consistent with Los Angeles County Fire Guidelines and State Fire Code.

Dennis Seider discussed the request for amendments to LIP Section 17.42.040.

Norm Haynie discussed Land Use Provisions and the prohibition of armoring. He stated certain beaches could not be developed unless there was armoring. Mr. Zola explained that this would prevent the creation of a new lot that could only be created by armoring.

CONSENSUS

By consensus, the Council directed staff to remove “native” from the last bullet point in LUP 4.45 (staff report page 16).

Ted Vaill stated grandfather provisions should take precedent throughout the document. He suggested expedited evaluation on a case-by-case basis for repair projects.

CONSENSUS

By consensus, the Council directed staff to contact constituents regarding 17.40.040G3 language (staff report page 22).

CONSENSUS

By consensus, the Council directed staff to remove native from 17.40.040R.

CONSENSUS

By consensus, the Council directed staff to utilize the current Interim Zoning Ordinance for set back requirements in 17.42.040D.

CONSENSUS

By consensus, the Council directed staff to revise 17.42.040L, M and O to be consistent with changes made to the LUP.

CONSENSUS

By consensus, the Council directed staff to bring back a comprehensive document for final review by the City Council.

ITEM 6 NEW BUSINESS

A. Fee Waiver Procedures for Facility Use Permits

Staff recommendation: Approve the administrative guidelines for providing fee waivers for qualifying facility use permits.

Parks and Recreation Director Adams presented the staff report.

Mayor Jennings suggested appeals go through the Commission rather than directly to the Council.

MOTION Councilmember House moved and Mayor Pro Tem Kearsley seconded to approve the policy with appeals heard by the Commission prior to coming to the Council. The motion carried 4-0, Councilmember Stern absent.

B. Report on Proposed Affinity Credit Card Program

Staff recommendation: Direct staff to return to Council with a recommendation for an affinity credit card program for the City of Malibu for the purpose of generating additional revenues to fund local youth programs.

Parks and Recreation Director Adams presented the staff report.

MOTION Councilmember Barovsky moved and Mayor Jennings seconded a motion to authorize staff to negotiate on behalf of the City and seek proposals as needed to prepare a recommendation for an affinity credit card program for the purpose of generating additional revenues to fund local youth programs. The motion carried 4-0, Councilmember Stern absent.

C. Pacific Coast Highway Traffic Turn Study

Staff recommendation: Approve the Pacific Coast Highway Traffic Turn Study prepared by Katz, Okitsu and Associates and authorize Katz Okitsu to provide extra services for prioritization and preliminary cost estimating of candidate projects sited in the study for a not-to-exceed amount of \$15,000.

City Engineer / Acting Public Works Director Morgan presented the staff report.

Walter Okitsu, Katz, Okitsu and Associates, provided an overview of the Pacific Coast Highway Traffic Turn Study including the purpose of the study, State Highway requirements, and recommendations.

In response to Mayor Jennings, City Engineer / Acting Public Works Director Morgan indicated the matter had been reviewed by the Public Safety Commission.

In response to Councilmember House, City Engineer / Acting Public Works Director Morgan discussed the proposed funding for the proposal.

MOTION Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to approve the Pacific Coast Highway Traffic Turn Study prepared by Katz, Okitsu and Associates and authorize Katz Okitsu to provide extra services for prioritization and preliminary cost estimating of candidate projects sited in the study for a not-to-exceed amount of \$15,000. The motion carried 4-0, Councilmember Stern absent.

ITEM 7 COUNCIL ITEMS

A. Council Appointments to the Malibu Trails Master Plan Advisory Committee
Recommendation: Mayor Jennings to appoint one member to the Malibu Trails Master Plan Advisory Committee.

This item was continued upon approval of agenda.

B. Representatives on the Metropolitan Transportation Authority (MTA) Westside/Central Service Sector Governance Council
Recommendation: Consider applications for nomination to the Metropolitan Transportation Authority (MTA) Westside/Central Service Sector Governance Council

MOTION Councilmember Barovsky moved and Mayor Pro Tem Kearsley seconded a motion to nominate Ryan Embree. The motion carried 4-0, Councilmember Stern absent.

C. Reinstatement of the Jobs of Nancy Cikatelli and Harry McDermott as Cashiers at Ralphs Market (Councilmember House)
Recommendation: Adopt Resolution No. 03-02 regarding the firing of Nancy Cikatelli and Harry McDermott.

Councilmember House presented the report.

MOTION Councilmember Barovsky moved and Councilmember House seconded a motion to direct staff to create a resolution, including that the City does not approve underage drinking but that the punishment outweighs the crime.

Mayor Jennings indicated he could not support the motion because government did not have a place in the dispute.

The motion carried 3-1, Mayor Jennings dissenting and Councilmember Stern absent.

ADJOURN At 10:30 p.m., Mayor Pro Tem Kearsley moved and Councilmember House seconded a motion to adjourn. The motion carried 4-0, Councilmember Stern absent.

Approved and adopted by the City Council of
the City of Malibu on February 10, 2003.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)